

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**TIMOTHY SHEARER,**

Plaintiff,

v.

**GREGORY CERASCO;  
CHRISTOPHER WAGNER;  
and ASHLEY RIOS,**

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

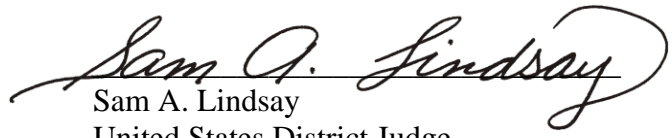
Civil Action No. **3:22-CV-895-L**

**ORDER**

Before the court is Defendants Christopher Wagner and Ashley Rios's Motion to Dismiss ("Motion to Dismiss") (Doc. 15), filed August 29, 2022. Dismissal of Plaintiff's illegal detention claim is sought, pursuant to Federal Rule of Civil Procedure 12(b)(6), on the ground that the claim is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). On December 16, 2022, the United States Magistrate Judge entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 20) ("Report"), recommending that the Motion to Dismiss be denied without prejudice for failure of Defendants Rios and Wagner to carry their burden with respect to the ground for dismissal asserted. No objections to the Report were filed.

Having considered the Motion to Dismiss, briefs, pleadings, Report, file, and record in this case, the court determines that the magistrate judge's findings and conclusions are correct, and **accepts** them as those of the court. Accordingly, the court **denies without prejudice** the Motion to Dismiss (Doc. 15).

**It is so ordered** this 6th day of January, 2023.

  
Sam A. Lindsay  
United States District Judge